IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 19593 of 2004

Between:

P.Narsaiah S/o.Ganapathi
R/o.Kodimial, Karimnagar District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Kodimial, Karimnagar District.
2 The Revenue Divisional Officer, Jagtial Karimnagar District.
3 The District Collector, Karimnagar District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Certiorari calling for the records relating to the order of the Hon'ble A.P. Administrative Tribunal Dt.23rd September, 2004 in O.A.No.8939 of 2002 and quash the same by holding it as illegal, bad, arbitrary and contrary to the judgment of this Hon'ble Court and well settled principles of Law.

Counsel for the Petitioner: MR.J.R.MANOHAR RAO

Counsel for the Respondents: GP FOR REVENUE

The Court, at the stage of admission, made the following :

ORAL ORDER (Per Hon'ble Sri Justice G.Bikshapathy)

1. The writ petition is filed challenging the order passed by the A.P. Administrative Tribunal in O.A.No.8939 of 2002, dated 23.9.2004.

2. The matter relates to the appointment to the post of Village Servant. One P. Kistaiah was employed as Neeradi (Village Servant), Kodimial village, however he died in 1978. Thereafter, some other persons were appointed. Ultimately, the petitioner made an application for considering his case for appointment as Village Servant. The said case was rejected by the Mandal Revenue Officer by proceedings, dated 31.12.2001 on the ground that he is not a Class-I legal heir and that he is only a legal heir of Class-II category (daughter's grandson). The said order came to be challenged by the petitioner before the Tribunal in O.A.No.8939 of 2002. The learned Tribunal dismissed the application on the ground that he has got alternative remedy. Against the said dismissal order, the present writ petition has been filed.

3. The learned counsel for the petitioner submits that no alternative remedy is provided under the rules and he has pleaded that the

matter has to be considered with reference to the legal heir of the deceased Kistaiah. Therefore, he submits that the order of the Tribunal is liable to be set aside.

4 . The learned counsel for the respondents, however, submits that there is an alternative remedy for filing an appeal before the Chief Commissioner of Land Administration, but the petitioner failed to prefer an appeal.

5 . However, we have asked the learned Government Pleader to show relevant statutory rules, but he could not do the same. Under those circumstances, we are of the considered view that there is no alternative and effective remedy available to the petitioner. Be that as it may, since the petitioner's case was rejected on the ground that he is not a Class-I legal heir, we find that the matter is required to be reconsidered in the hands of the 2nd respondent-Revenue Divisional Officer. If no other preferential legal heirs are available, the petitioner can be considered among the available legal heir in accordance with the rules if he is in the category laid down for appointment as Village Servant.

6. The writ petition is accordingly allowed. The matter is remitted back to the Revenue Divisional Officer for fresh consideration as directed above. This exercise shall be done within a period of two months from the date of receipt of a copy of this order. No costs.

_____ (G. BIKSHAPATHY, J.)

13th December, 2004.

(P.S. NARAYANA, J.)

bcj

To

1 The Mandal Revenue Officer, Kodimial, Karimnagar District.
2 The Revenue Divisional Officer, Jagtial Karimnagar District.
3 The District Collector, Karimnagar District.

4 Two C.Cs. to the Government Pleader for Revenue, High Court Buildings, Hyderabad (OUT)

5 Two C.D. copies